



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 11 1998

MEMORANDUM

SUBJECT: Facilitating Reuse of Brownfields Subject to the Resource Conservation and Recovery Act: **RCRA Brownfields Prevention Initiative**

FROM: Steven A. Herman, Assistant Administrator *SAH*
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TO: RCRA Senior Policy Managers
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Regions 1 - 10

The Office of Solid Waste and Emergency Response (OSWER) and the Office of Enforcement and Compliance Assurance (OECA) would like your assistance with a new effort to identify and understand any potential impediments to cleanup and reuse of brownfields which may be posed by the Resource Conservation and Recovery Act (RCRA). In February 1995, EPA announced its Brownfields Action Agenda, launching the first Federal effort of its kind designed to empower States, tribes, communities, and other parties to safely clean up, reuse and return brownfields to productive use. To broaden the mandate of the original agenda, in 1997 EPA initiated the Brownfields National Partnership Agenda, involving nearly 20 other federal agencies in brownfields cleanup and reuse. Since the 1995 announcement, EPA has funded brownfields pilots, reduced barriers to cleanup and redevelopment by clarifying environmental liability issues, developed partnerships with interested stakeholders, and stressed the importance of environmental workforce training. In implementing the Agenda, EPA, to date, has focused primarily on issues associated with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Representatives from cities, industries, and other stakeholders, however, have recently begun emphasizing the importance of looking beyond CERCLA and addressing issues at brownfield sites in a more comprehensive manner.

The RCRA corrective action program, like Superfund, was designed to focus on the sites posing the greatest risk to human health and the environment first. We believe that stabilization and cleanup of these high priority hazardous waste sites should remain a top priority. At the same time, we should begin strategizing on ways to facilitate the successful reuse of these facilities, where appropriate. There are also opportunities to facilitate reuse efforts at other lower priority sites subject to RCRA requirements. Additionally, a significant number of states are authorized for RCRA corrective action and should also be encouraged to promote the safe reuse of RCRA facilities. Our goals for EPA's RCRA Brownfields Prevention Initiative are:

- 1 To raise awareness by announcing and publicizing our intentions in undertaking this initiative to lenders, developers, community representatives and other stakeholders in brownfields cleanup and reuse.
2. To work with our partners in brownfields reuse to gather information, identify any RCRA barriers to redevelopment, and develop solutions.
3. To develop tools such as fact sheets and pilot good ideas generated from dialogue with interested stakeholders.

This initiative will not address large scale regulatory or legislative reform; rather, it will build on the statutory and regulatory flexibility that currently exists. While EPA supports targeted legislative relief, work is underway on regulatory changes that streamline RCRA requirements and address some of the obstacles to property reuse. For example:

in the Hazardous Waste Identification Rule for Contaminated Media, EPA is developing a permitting process for remediation wastes that eliminates the requirement for facility-wide corrective action at cleanup-only sites that are not otherwise subject to RCRA permit requirements;

in the Closure/Post Closure Rule, EPA proposed allowing closing treatment, storage, and disposal facilities to be cleaned up under an "alternative mechanism" without having to obtain a permit addressing post closure care;

in the Subpart S Advanced Notice of Proposed Rulemaking and the upcoming Notice of Data Availability/Performance Standards, EPA is proposing a set of performance standards that focus on completion and results; and,

in the Land Disposal Restrictions Phase IV, EPA developed new treatment standards specifically tailored to contaminated soils and a new opportunity for risk-based land disposal restriction treatment variances that will allow decisions about LDR treatment to be made in concert with decisions about cleanup levels.

In order to further develop this initiative and plan for implementation, we are soliciting regional participation on the RCRA Brownfields Prevention Work Group. Please submit the names of appropriate points of contact within your office by July 1, 1998, to Marjorie Buckholtz at (202) 260-6153.

We look forward to working with you to find ways, in appropriate situations and in consideration of your limited resources, to facilitate the reuse of previously used property that may be subject to RCRA. Should you have any questions, or need help in addressing a site specific situation, please contact Greg Madden, Office of Site Remediation Enforcement at (202) 564-4229 for liability and enforcement questions, Mike Fitzpatrick, Office of Solid Waste at (703) 308-8411 for corrective action program and permitting issues, or Marjorie Buckholtz, Outreach and Special Projects Staff at (202) 260-6153 for general brownfields information.

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